

Message Text

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INFO OCT-01 EUR-12 ISO-00 CIAE-00 DODE-00 PM-05 H-01
INR-10 L-03 NSAE-00 NSC-05 PA-01 SP-02 SS-15
ICA-11 IO-13 HA-05 /094 W
-----026331 302026Z /62

R 300357Z AUG 78
FM AMEMBASSY ISLAMABAD
TO SECSTATE WASHDC 8864
INFO AMEMBASSY ANKARA
AMEMBASSY COLOMBO
AMEMBASSY DACCA
AMEMBASSY KABUL
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C O N F I D E N T I A L SECTION 1 OF 3 ISLAMABAD 8481

C O R R E C T E D C O P Y (PARA 4 AND 4 GARBLED)

CINCPAC FOR POLAD

E.O. 11652: GDS
TAGS: PINT, SHUM, PK
SUBJECT: THE MLA FACES A DECISION ON BHUTTO'S FATE

REF: ISLAMABAD 8188

1. SUMMARY: THE SUPREME COURT'S HEARING IN THE APPEAL OF
FORMER PRIMIN BHUTTO AND FOUR OTHERS ON THEIR MURDER/CONSPIRACY
CONVICTIONS SHOULD BE OVER IN THE NEXT SEVERAL WEEKS. IF THE
SUPREME COURT UPHOLDS THE DECISION OF THE LAHORE HIGH COURT,
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CHIEF MARTIAL LAW ADMINISTRATOR (CMLA) GENERAL ZIA AND HIS
GOVERNMENT WILL BE FACED WITH A STARK CHOICE ABOUT WHAT TO DO
WITH BHUTTO. ZIA CAN EITHER HANG THE FORMER PM OR LET HIM LIVE.
THIS MESSAGE EXAMINES THE PROBLEM FROM ZIA'S POINT OF
VIEW, AND LAYS OUT SOME OF THE ARGUMENTS THAT WEIGHT ON
THE GENERAL BOTH FOR AND AGAINST THE USE OF THE ULTIMATE
SOLUTION. END SUMMARY.

2. AS THE SUPREME COURT'S HEARING IN THE BHUTTO CASE COMES TO A CLOSE, SPECULATION HAS INTENSIFIED OVER WHAT CMLA GENERAL ZIA WILL DO WITH BHUTTO WHEN THE COURT FINALLY HANDS DOWN ITS DECISION. THE GENERAL WILL BE FACED WITH A HARD CHOICE, AND WHATEVER HE DOES WITH THE FORMER PM WILL HAVE IMMEDIATE AND IMMENSE RAMIFICATIONS FOR PAKISTAN'S INTERNAL PROSPECTS AND ITS EXTERNAL RELATIONS.

3. AMONG A RANGE OF ALTERNATE SCENARIOS, IT IS POSSIBLE, ALTHOUGH UNLIKELY, THAT THE SUPREME COURT WILL OVERTURN THE LAHORE HIGH COURT'S JUDGEMENT THAT BHUTTO AND HIS ACCOMPLICES ARE GUILTY OF MURDER. IN A SENSE, AN ACQUITTAL ON THE MURDER/CONSPIRACY CHARGE WILL ONLY DELAY A FINAL DECISION AS THE MLA IS KNOWN TO HAVE SEVERAL CASES AGAINST BHUTTO WAITING IN THE WINGS. EVEN WITH A NEW SET OF CHARGES, HOWEVER, A BHUTTO VICTORY IN THE SUPREME COURT WOULD BE A DANGEROUS BLOW TO THE MARTIAL LAW ADMINISTRATION (MLA) AND CREATE AN ENTIRELY NEW POLITICAL SITUATION HERE.

4. ALTERNATIVELY, THE SUPREME COURT COULD UPHOLD THE LOWER COURT'S RULING BUT COMMUTE THE DEATH SENTENCE. THE COURT COULD DETERMINE THAT IMPRISONMENT IS AN ALTERNATIVE PUNISHMENT MORE COMMENSURATE WITH THE CRIME. WHILE A TIDY SOLUTION FROM THE COURT'S VIEW, THIS OPTION IS UNCONFIDENTIAL

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LIKELY TO BE POLITICALLY ACCEPTABLE TO THE CMLA, ALTHOUGH THERE ARE THOSE WHO SPECULATE THAT IF ZIA BOWS TO FOREIGN PRESSURES TO AVOID EXECUTION, IT IS EASIER FOR ZIA TO LET THE COURT GIVE CLEMENCY THAN TO GIVE IT HIMSELF.

5. THE MOST PROBABLE RESULT IS THAT THE SUPREME COURT WILL FIND THAT THE LAHORE HIGH COURT ACTED CORRECTLY IN JUDGING BHUTTO GUILTY, AND THAT DEATH IS A REASONABLE SENTENCE FOR THE CRIME. AT THAT POINT, WE EXPECT THAT BHUTTO AND/OR HIS FAMILY AND SUPPORTERS WILL APPEAR TO THE CMLA FOR A COMMUTATION OF THE DEATH SENTENCE. ZIA WOULD THEN FACE THE STARK CHOICE.

6. DOES THE MLA THINK EXECUTION NECESSARY? FROM THE MLA'S POINT OF VIEW, BHUTTO REMAINS A GRAVE THREAT TO THE COUNTRY. ZIA HAS CONSISTENTLY MAINTAINED THAT HE WILL HANG THE FORMER PM IF THE SUPREME COURT UPHOLDS THE LOWER COURT, AND WE HAVE NO REASON TO DOUBT THAT ZIA WOULD ORDER THE EXECUTION IF HE FEELS HE CAN OR MUST. ZIA AND HIS CLOSEST COLLEAGUES, STARTING FROM THEIR HARSH PREMISES ABOUT BHUTTO'S PAST CRIMES AND EVER-PRESENT THREAT, MAY USE SOME OF THE FOLLOWING ARGUMENTS IN THEIR CALCULUS:

--HANGING THE FORMER PM MAY BE THE ONLY WAY THEY CAN
FINALLY AND SURELY "SOLVE THE BHUTTO PROBLEM." IN WEIGH-
ING THEIR DECISION ON BHUTTO'S FATE, THEY WILL START FROM
THE PREMISE THAT SINCE BHUTTO IS GUILTY OF THE MOST
HEINOUS CRIMES--MURDER, CORRUPTION, THE BREAKUP OF
PAKISTAN--THE FORMER PM IS WHOLLY UNFIT TO RULE PAKISTAN.
SINCE JULY 5, 1977, THE CMLA HAS WRESTLED WITH, BUT FAILED
TO OVERCOME, THE APPARENT FACT OF BHUTTO'S CONTINUED
POPULARITY: THE TUMULTUOUS WELCOME BHUTTO RECEIVED AT
LAHORE AIRPORT IN THE SUMMER OF 1977 IS NO DOUBT ETCHED
IN ZIA'S MEMORY. ZIA FEARS THAT IF HE DOES NOT EXECUTE
BHUTTO, THE FORMER PM WILL SOMEHOW COME BACK WITH A VENGEANCE.
WHILE HIS SUPPORTERS CLAIM THAT BHUTTO IS NOT A VENGEFUL
MAN, ZIA AND MANY OTHERS ARE CONVINCED THAT TERRIBLE RETRI-
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BUTION WOULD BE A RESURRECTED BHUTTO'S FIRST ORDER OF
BUSINESS.

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ICA-11 IO-13 HA-05 /094 W
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R 300357Z AUG 78
FM AMEMBASSY ISLAMABAD
TO SECSTATE WASHDC 8865
INFO AMEMBASSY ANKARA
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CORRECTED COPY (TEXT CORRECTED)

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ZIA MUST ALSO ADD TO HIS CALCULATION HIS FEAR THAT A BHUTTO LIVE AND RESURGENT HOLDS OUT THE UGLY PROSPECT OF CIVIL WAR. BHUTTO'S OPPONENTS, WHO FOUGHT HIM AND HIS GOVERNMENT TO A VIOLENT STANDSTILL IN SPRING, 1977, WOULD LIKELY POUR OUT INTO THE STREETS AGAIN TO DO BATTLE WITH PRO-BHUTTO MOBS. ZIA PROBABLY ALSO FEELS THAT IF HE DOES NOT EXECUTE BHUTTO THE FORMER PM WILL REMAIN A THREAT TO PAKISTAN'S ALREADY FRAIL INSTITUTIONS, AND THAT A BHUTTO RETURNED TO POWER WOULD FOCUS HIS WRATH ON THE ARMY LEADERS. WHILE AN EXECUTED BHUTTO WOULD LEAVE A POWERFUL LEGACY
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TO BE EXPLOITED BY SOME DESIGNATED HEIR, THE MLA COULD PREFER TO BE RID OF THE CHARISMA AND APPEAL OF THE MAN HIMSELF. AFTER AN EXECUTION, THEY WOULD LIKELY TAKE STEPS TO ENSURE THAT THE BHUTTO FAMILY IS UNABLE TO GRASP THE MANTLE, BY KEEPING FAMILY MEMBERS IN JAIL, PUTTING THEM UNDER HOUSE ARREST, OR EVEN SENDING THEM INTO EXILE.

--ALTHOUGH BHUTTO REMAINS A POPULAR FIGURE, THERE HAS BEEN AS YET NO ARTICULATE INTERNAL PRESSURE, EVEN FROM THE PAKISTAN PEOPLES PARTY (PPP), TO STOP BHUTTO'S EXECUTION. THIS MAY BE A RESULT OF THE MLA'S LARGELY SUCCESSFUL ATTEMPTS TO BUTTON UP THE PPP, OR IT MAY REFLECT THE FRAGMENTED STATE OF THE PARTY APPARATUS (SOME ARGUE THAT RADICAL PPP ELEMENTS WOULD BE HAPPY TO SEE BHUTTO GONE). WHATEVER THE CAUSE OF THE EERIE SILENCE, ZIA WILL COUNT IT IN HIS EQUATION AS A SIGN THAT HE CAN HOLD DOWN ADVERSE DOMESTIC REACTION.

--AS A COROLLARY ADVANTAGE, HANGING THE FORMER PM WOULD PUT THE COUNTRY'S OTHER POLITICIANS ON NOTICE THAT THE MILITARY MEANS BUSINESS, AND, IF THE MILITARY INTENDS TO STAY CLOSE TO THE REINS OF POWER EVEN IN A CIVILIAN CABINET ARRANGEMENT, THIS SHOW OF FORCE WOULD BE A USEFUL LESSON TO THE POLITICIANS.

--HANGING BHUTTO MAY BE PART OF THE DEAL WROUGHT BY ZIA AND THE COUNTRY'S POLITICIANS--NO LOVERS OF THE FORMER PM--AS THE PRICE OF THE POL'S AGREEMENT TO JOIN ZIA'S CABINET GOVERNMENT.

--HANGING BHUTTO WOULD BE CONSISTENT WITH THE OFT-HONORED

"INDEPENDENCE" OF THE PAKISTANI JUDICIARY.

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8. WHAT COURSE IF HE MUST LIVE? AS ZIA VIEWS HIS OPTIONS THERE ARE ALSO POWERFUL CONSTRAINTS WHICH WILL NO DOUBT MAKE HIM PONDER CAREFULLY BEFORE ORDERING BHUTTO'S EXECUTION. ZIA SURELY WILL DECIDE TO SPARE BHUTTO ONLY UNDER THE MOST EXTREME PRESSURE, AND THE CMLA'S CHOICE ON WHAT TO DO WILL A LIVE BHUTTO WILL STILL BE VERY MUCH DETERMINED BY HIS FEAR AND LOATHING OF THE FORMER PM.

--MOST IMPORTANT AMONG THESE CONSTRAINTS ARE THE EXTERNAL PRESSURES FROM MANY COUNTRIES INCLUDING IRAN, THE UK, THE PRC, SAUDI ARABIA, TURKEY, LIBYA, AND THE US, WHICH WILL WEIGH HEAVILY ON ZIA. THESE AND OTHERS HAVE ALREADY MADE THEIR OPPOSITION TO BHUTTO'S EXECUTION KNOWN. THE GOP HAS PAID A HEAVY PRICE IN ITS FOREIGN RELATIONS BY INCARCERATING BHUTTO AND HAVING HIM STAND TRIAL. RELATIONS WITH IRAN HAVE BECOME INCREASINGLY DIFFICULT, AND THE SAUDIS HAVE NOT BEEN OVERLY GENEROUS WHILE ZIA HAS BEEN PROSECUTING THE FORMER PM. SINCE ZIA MUST RECKON WITH INTERNATIONAL OPINION--PARTIALLY GALVANIZED BY THE PUBLICITY WORK ABROAD OF BHUTTO'S SUPPORTERS AND FAMILY MEMBERS--STRONG DEMANDS FOR CLEMENCY WILL HAVE A SIGNIFICANT IMPACT. IF EXECUTING BHUTTO MEANS THE LOSS OF IRANIAN, SAUDI, AND LIBYAN AID, THAT WOULD BE A SEVERE PENALTY TO PAY.

--ZIA MAY ALSO FEAR THAT THE REAL BENEFICIARIES OF BHUTTO'S EXECUTION WOULD BE THE FAR-LEFT AND THE SOVIETS. THE FAR-LEFT WOULD HAVE A MARTYR, AND THE SOVIETS MIGHT EXPLOIT ANY RESULTANT INSTABILITY IN PAKISTAN.

--ALTHOUGH THE ARMY IS PROBABLY CONVICTED IT COULD COPE WITH ANY VIOLENT DOMESTIC REACTION TO THE EXECUTION, THERE WOULD NO DOUBT BE SOME UNREST AND SOME LINGERING RESISTANCE.

9. IF ZIA CONCLUDES THAT, AS MUCH AS HE WOULD LIKE TO DO
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IT, OFFICIALLY HANGING BHUTTO IS IMPOSSIBLE, BHUTTO'S DEATH MIGHT BE ARRANGED--IN AN ATTEMPTED ESCAPE, FOR EXAMPLE. WHILE WE THINK THIS OPTION HIGHLY UNLIKELY, ZIA MIGHT BE FORCED TO ACT IN RESPONSE TO PRESSURE FROM THE

HARD-LINE GENERALS IN THE MLA, SUCH A COURSE MIGHT EVEN
BE TAKEN AT THESE GENERALS' OWN INITIATIVE WITHOUT ZIA'S
APPROVAL.

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ICA-11 IO-13 HA-05 /094 W
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R 300357Z AUG 78
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10. IF UNDER THESE EXTREME PRESSURES ZIA IS FORCED TO CONCLUDE
THAT BHUTTO MUST LIVE, THE CMLA WILL FACE THE PROBLEM OF BURYING
THE FORMER PM POLITICALLY. ZIA AND HIS SUPPORTERS SIMPLY CAN
NEVER ACQUIESCE IN BHUTTO'S RETURN TO POWER. BOTH PRISON AND
EXILE ARE MENTIONED AS OPTIONS, BUT NEITHER WILL GUARANTEE
BHUTTO'S POLITICAL DEMISE.

A. PRISVF. AN INTERNAL PRISON SENTENCE MIGHT APPEAL TO THE CMLA
AS A WAY TO EASE FOREIGN PRESSURE, APPEAR TO BE HUMANITARIAN, AND
STILL PUNISH BHUTTO. IT WOULD ALSO PROVIDE A LEVER OVER THE
COUNTRY'S OTHER POLITICIANS (WHOM BHUTTO COULD STILL PROBABLY
DEFEAT IN ANY ELECTION), AS ZIA WOULD STAND AS THE ONLY POLITICAL
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POWER ABLE TO CHECK BHUTTO. AN INTERNAL PRISON SENTENCE MIGHT ALSO BE COUPLED WITH A BLACKOUT ON NEWS ABOUT THE FORMER PM. WHILE HARD TO DO, ZIA MIGHT IN THIS WAY HOPE TO REMOVE BHUTTO FROM THE PUBLIC CONSCIOUSNESS. HOWEVER, THE GREAT DISADVANTAGE WITH THIS COURSE IS THAT BHUTTO WOULD REMAIN ALIVE, AND THERE WOULD BE NO GUARANTEE THAT, LIKE PERON (OR MUJIB), HE WOULD NOT RETURN AND EXACT A TERRIBLE PRICE FROM THE PRESENT MILITARY AND CIVILIAN LEADERSHIP. POLITICS IN PAKISTAN WOULD PROBABLY ALSO BE AFFECTED BECAUSE BHUTTO'S PRESENCE -- EVEN HOLED-UP IN SOME MILITARY PRISON -- WOULD HOVER OVER ALL POLITICAL DELIBERATIONS AND CALCULATIONS.

B. EXILE. MANY OF THE SAME DISADVANTAGES ARE INVOLVED IN A SCHEME FOR EXILING BHUTTO. THERE HAVE BEEN RUMORS SINCE THE SUPREME COURT TRIAL BEGAN THAT EXILE TO IRAN, SAUDI ARABIA, LIBYA, OR EVEN THE PRC IS POSSIBLE. IF EXILE IS THE CHOSEN OPTION, IT WOULD SURELY BE TO A MORE CONSERVATIVE STATE, SUCH AS SAUDI ARABIA, WHERE ZIA MIGHT BE ASSURED, AT LEAST FOR THE SHORT TERM, THAT BHUTTO WOULD BE OUT OF THE WAY AND KEPT UNDER CLOSE SUPERVISION. THE SPECTRE OF PERON LOOMS AGAIN, HOWEVER, AND BHUTTO WOULD STILL EXERT CONTROL -- ALTHOUGH NEGATIVELY -- OVER THE POLITICAL PROCESS. SOME OF US STRONGLY DOUBT, HOWEVER, THAT ANY PAK GOVERNMENT WOULD BE WILLING TO PUT BHUTTO'S NEUTRALIZATION -- OR RELEASE -- IN THE HANDS OF ANY FOREIGN GOVERNMENT WHICH MIGHT, AT A LATER TIME, DECIDE THAT BHUTTO SHOULD BE FREED, ALLOWED TO MAKE PUBLIC STATEMENTS, OR HELPED TO ESCAPE.

11. THERE IS PRESENTLY NO CONSENSUS AMONG OUR CONTACTS ON WHICH ROUTE ZIA WILL TAKE, ALTHOUGH THERE IS FULL AGREEMENT THAT THE MLA PERCEIVES BHUTTO AS A GRAVE THREAT TO PAKISTAN AND THAT ZIA MUST FIND A WAY TO NEUTRALIZE HIM PERMANENTLY. THE ULTIMATE DECISION WILL BE TAKEN BY A VERY SMALL GROUP, AND PERHAPS BY ZIA ALONE. IN A VERY REAL SENSE, THE SPECULATION OF OTHERS HAS NO
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BEARING. IT IS THE GENERAL WHO WILL HAVE TO MAKE HIS CALCULATIONS OF RISK AND BENEFIT, AND DEAL WITH THE CONSEQUENCES.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TRIALS, POLITICAL LEADERS, INTELLIGENCE ASSESSMENTS, COURT PROCEEDINGS
Control Number: n/a
Copy: SINGLE
Draft Date: 30 aug 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978ISLAMA08481
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D780363-0149, D780354-0155
Format: TEL
From: ISLAMABAD
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t1978089/aaaaahlu.tel
Line Count: 378
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 8d519a67-c288-dd11-92da-001cc4696bcc
Office: ACTION NEA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 7
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 78 ISLAMABAD 8188
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 09 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1813800
Secure: OPEN
Status: NATIVE
Subject: THE MLA FACES A DECISION ON BHUTTO'S FATE
TAGS: PINT, SHUM, PK, (BHUTTO, ZULFIKAR ALI)
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/8d519a67-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014